

AMENDED IN SENATE APRIL 13, 2015

SENATE BILL

No. 132

Introduced by Senator Anderson

January 22, 2015

An act to amend Section ~~1202.7~~ 1193 of the Penal Code, relating to ~~probation~~ judgments.

LEGISLATIVE COUNSEL'S DIGEST

SB 132, as amended, Anderson. ~~Probation services.~~ *Judgments: required attendance.*

Existing law requires that judgment upon a person convicted of a felony be pronounced in the personal presence of the defendant unless the defendant requests that judgment be pronounced in his or her absence, as specified, or unless, after the exercise of reasonable diligence to procure the defendant, the court finds that it is in the interest of justice that the judgment be pronounced in his or her absence.

This bill would instead require a person convicted of a felony to be present when judgment is pronounced against him or her without exception.

~~Existing law makes specified findings relating to the provision of probation services, including the primary considerations in the granting of probation.~~

~~This bill would make technical, nonsubstantive changes to that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1193 of the Penal Code is amended to
2 read:

3 1193. Judgment upon persons convicted of commission of
4 crime shall be pronounced as follows:

5 (a) If the conviction is for a felony, the defendant shall be
6 personally present when judgment is pronounced against him or
7 her, ~~unless the defendant, in open court and on the record, or in a~~
8 ~~notarized writing, requests that judgment be pronounced against~~
9 ~~him or her in his or her absence, and that he or she be represented~~
10 ~~by an attorney when judgment is pronounced, and the court~~
11 ~~approves his or her absence during the pronouncement of judgment,~~
12 ~~or unless, after the exercise of reasonable diligence to procure the~~
13 ~~presence of the defendant, the court shall find that it will be in the~~
14 ~~interest of justice that judgment be pronounced in his or her~~
15 ~~absence; provided, that when any judgment imposing the death~~
16 ~~penalty has been affirmed by the appellate court, sentence may be~~
17 ~~reimposed upon the defendant in his or her absence by the court~~
18 ~~from which the appeal was taken, and in the following manner:~~
19 ~~upon receipt by the superior court from which the appeal is taken~~
20 ~~of the certificate of the appellate court affirming the judgment, the~~
21 ~~judge of the superior court shall forthwith make and cause to be~~
22 ~~entered an order pronouncing sentence against the defendant, and~~
23 ~~a warrant signed by the judge, and attested by the clerk under the~~
24 ~~seal of the court, shall be drawn, and it shall state the conviction~~
25 ~~and judgment and appoint a day upon which the judgment shall~~
26 ~~be executed, which shall not be less than 60 days nor more than~~
27 ~~90 days from the time of making the order; and that, within five~~
28 ~~days thereafter, a certified copy of the order, attested by the clerk~~
29 ~~under the seal of the court, and attached to the warrant, shall, for~~
30 ~~the purpose of execution, be transmitted by registered mail to the~~
31 ~~warden of the state prison having the custody of the defendant and~~
32 ~~certified copies thereof shall be transmitted by registered mail to~~
33 ~~the Governor; and provided further, that when any judgment~~
34 ~~imposing the death penalty has been affirmed and sentence has~~
35 ~~been reimposed as above provided there shall be no appeal from~~
36 ~~the order fixing the time for and directing the execution of the~~
37 ~~judgment as herein provided. If a pro se defendant requests that~~
38 ~~judgment in a nonecapital case be pronounced against him or her~~

1 in his or her absence, the court shall appoint an attorney to
2 represent the defendant in the in absentia sentencing. *her*.

3 (b) If the conviction be of a misdemeanor, judgment may be
4 pronounced against the defendant in his absence.

5 SECTION 1. Section 1202.7 of the Penal Code is amended to
6 read:

7 1202.7. (a) The Legislature finds and declares that the
8 provision of probation services is an essential element in the
9 administration of criminal justice.

10 (b) The primary considerations in the granting of probation shall
11 be the safety of the public, which shall be a primary goal through
12 the enforcement of court-ordered conditions of probation; the
13 nature of the offense; the interests of justice, including punishment,
14 reintegration of the offender into the community, and enforcement
15 of conditions of probation; the loss to the victim; and the needs of
16 the defendant.

17 (c) It is the intent of the Legislature that efforts be made to
18 engage in the treatment of persons who are subject to Section
19 290.011 and who are on probation.